



**THE CITY OF NEW YORK  
LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, NEW YORK 10007

**MICHAEL A. CARDOZO**  
*Corporation Counsel*

**Andrea O'Connor**  
Labor and Employment Law Division  
Phone: (212) 676-2750  
Fax: (212) 788-8877  
E-mail: aoconnor@law.nyc.gov

September 28, 2007

**BY ECF**

Honorable Kevin Nathaniel Fox  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street, Room 540  
New York, New York 10007

Re: Guerrero v. New York City Fire Department, et al.  
07 CV 3986 (SHS)(KNF)  
Matter Number: 2007-027447

Dear Magistrate Judge Fox:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel for the City of New York, assigned to represent defendant New York City Fire Department ("FDNY") in the above-referenced action brought pursuant to Title VII of the Civil Rights Act of 1964. Defendants write today to respectfully request a thirty-day (30) extension of time for the FDNY to respond to the complaint in above-referenced action. This is the FDNY's first request for an extension of time. I have left two telephone messages for plaintiff to obtain his consent to this extension, however plaintiff has not returned by telephone calls.

As a preliminary matter, on or about August 30, 2007, this office received, along with the complaint, a Statement of Service by Mail and Acknowledgement of Receipt by Mail of Summon and Complaint ("Statement of Service"), dated August 23, 2007, for the above-referenced action. The Statement of Service states that "[t]o avoid being charged with the expense of service upon you, you must sign, date and complete . . . this form and mail or deliver the original completed to the U.S. Marshals Service within thirty (30) days from the date of this form." The Statement of Service further states that "[t]he time to answer expires twenty (20) days after the day you mail or deliver this for to the U.S. Marshals Service." As such, on September 21, 2007, I completed the form on behalf of the FDNY and mailed it to the U.S. Marshals Service, thereby requiring the FDNY to submit its answer by October 11, 2007.

However, the docket sheet in this action indicates that the FDNY was served on September 12, 2007 and is therefore required to answer by October 2, 2007. For the purposes of

this request, I respectfully request the extension of the FDNY's time to answer from October 11, 2007, the date indicated on the Statement of Service , to November 12, 2007.

In order to respond to the complaint on behalf of Defendants DOE, which must be grounded in knowledge, information and belief formed after reasonable inquiry, as required by Rule 11 of the Federal Rules of Civil Procedure, I must identify, locate and interview those persons with knowledge of the allegations set forth in the complaint. In addition, I must identify, locate and review any documents relevant to plaintiff's claims. An extension of time will provide us with sufficient time to investigate Plaintiff's allegations and to review documents that might be relevant to this action.

The thirty-day extension is also necessary because this office has not yet completed its investigation, pursuant to General Municipal Law §50-k, concerning whether it is appropriate to represent the two (2) individuals named as defendants in the complaint. Upon information and belief, the two (2) named defendants in this action, John DeSantis and Frances Pascale, are current New York City employees and have been served with copies of the complaint. As such, this office must determine pursuant to §50-k, whether it is appropriate to represent these defendants.<sup>1</sup> The extension will allow this office to complete its investigation and make representation decisions prior to submitting an appropriate response to the complaint. In this way, this office can respond to the complaint on behalf of all defendants it represents at once rather than submitting numerous responses.

For the foregoing reasons, defendants respectfully request that Court grant the FDNY's request for an extension of time, until November 12, 2006, to serve a response in this action.

Thank you for your consideration of this request.

Respectfully submitted,



Andrea O'Connor (AO4477)  
Assistant Corporation Counsel

cc: Miguel A. Guerrero (by first class mail)  
Plaintiff *Pro Se*  
400 Fort Washington Avenue, Apartment 6F  
New York, New York 10033

---

<sup>1</sup> In order to preserve these individual defendants' rights while this inquiry is made, this office, without appearing on these individual defendants' behalf, that their time to respond also be extended to November 11, 2007.